



REGULAR MEETING
PUBLIC EMPLOYEES' RETIREMENT BOARD

July 10, 2008

Vice President John Paull called the regular meeting to order at 10:00 a.m. Thursday, July 10, 2008. Roll call was taken with six members of the Board being present, President Jay Klawon was excused. Board members and staff present were:

Roll Call:

John Paull, Vice President
Darcy Halpin, Member
John Nielsen, Member
Ray Peck, Member
Dianna Porter, Member
Terry Smith, Member
Roxanne Minnehan, Executive Director
Melanie Symons, Legal Counsel
Scott Miller, Legal Counsel
Ursula Hatfield, Executive Assistant

OPEN MEETING

Linda Ulrich and Perry Christie, Great West Retirement Services; Ed Cleary, Scott Moore, Doug Neil, Chad Nicholson, Matt Norby, and Jack Tretheway members of the Montana State Firemen's Association; and Kim Flatow, Member Services Bureau Chief; Diann Levandowski, Assistant Fiscal Services Bureau Chief, Barb Quinn, Fiscal Services Bureau Chief; and Kathy Samson, DC Education Services Bureau Chief, joined the meeting.

MINUTES OF OPEN MEETING

The minutes of the open meeting of June 12, 2008 were presented.

Moved: Ms. Dianna Porter moved to approve the minutes of the June 12, 2008 PERB Regular Open Meeting.

Seconded: Ms. Darcy Halpin

No public comment.

Vote: 6/0

Public Comment on any subject of interest not on the Board agenda: Mr. Smith asked that the DC fees schedule information be postponed to the September PERB meeting, due to not being present for the August PERB meeting. Ms. Minnehan noted this and stated that this is possible.

Ms. Minnehan announced to the Board and members of the public, MPERA's Comprehensive Annual Financial Report for year-end June 30, 2007, has received the Certificate in Achievement and Excellence for Financial Reporting. This marks the tenth year in a row that MPERA has won this award. Ms. Minnehan thanked all those who took part in this endeavor.

EXECUTIVE DIRECTOR'S REPORT – Roxanne Minnehan, Executive Director

Informal Consideration – FURS Membership Eligibility Central Valley – Melanie Symons

Before discussion, Ms. Symons asked for some clarification from the Board and of Mr. Miller, MPERA Legal Counsel. Ms. Symons stated that Mr. Hansen, legal counsel for Central Valley, asked if he could comment since this item is presented in the open meeting. Formal considerations are usually closed meeting items. The party is unable to make comments during this phase of the process due to the other parties' right to appeal the Board's decision. The question is, since this is being presented in the open meeting, could Mr. Hansen make comments during the public portion of the discussion? Mr. Miller stated that the purpose of open meetings is to allow public to see the workings of the government and to participate in the workings of the government to the extent that these decisions could affect the general public. The public therefore, has the right to voice their opinions during the public comment part of the process. However, during informal considerations and the appeal process the other party does not have the right to participate in the discussion, under the rules of the Board. Mr. Miller stated that due to Montana's Constitutional rights, the public has the right to public comment. Mr. Hansen clarified that he only wants to answer questions or clarify items brought up by members of the public, not give testimony to the Board.

Motion: Mr. John Nielsen moved to allow public comment, following the open meetings process.

Second: Ms. Dianna Porter

No public comment.

Vote: 5/1 with Mr. Peck voting nay.

Prior to 2007, only cities of first and second class that employed full-paid firefighters could join FURS. In 2007 the Legislature passed Senate Bill 532, sponsored by Senator Steve Gallus from Butte, Section one amended the first statute to include smaller cities and rural fire districts with full-paid firefighters to elect to join FURS. Central Valley Fire District is located in the Belgrade area; it is a rural fire district expressing interest in FURS. They have some questions to resolve before joining. One is the impact on Social Security options available to other firefighters. But the basic issue is whether the Board has correctly interpreted the statute that a firefighter be appointed as a paid firefighter prior to the age of 35, as opposed to being a volunteer firefighter prior to age 35. In statute the age requirement is there "at time of original appointment." Staff has always required this to be appointed as a paid firefighter not a volunteer firefighter. The

requirement is being challenged whether MPERA and PERB are interpreting this correctly and also whether this violates Federal and state of Montana age discrimination statutes. Ms. Symons stated that whether this violates age discrimination laws is not up to the Board to decide but to follow statute as it is written. Statute 19-13-104(6) MCA defines "full-paid firefighter means a person appointed by an employer as a firefighter under the standards provided in 7-33-4106". In Title 7, the local government statutes, 7-33-4110 this part of the law doesn't pertain to volunteer fire departments.

Motion: Mr. Terry Smith moved that the Board uphold staff's determination that a firefighter's initial appointment as a paid firefighter must have occurred prior to age 35 in order for the firefighter to join FURS.

Second: Mr. John Nielsen

No public comment.

Vote: 6/0

EIAC Appointments – Kathy Samson

The Employee Investment Advisory Council (EIAC) bylaws state that members have 3-year, staggered terms. Five EIAC members' terms expire on July 31, 2008. Four of the five are willing to continue in their roles. Staff recommends that we re-appoint Rande Muffick, Ron Alles, and Tom Bilodeau. Staff also recommends that Kathy Samson be reappointed as the Board representative. The state representative will be appointed at a later date.

Motion: Mr. Ray Peck moved to uphold staff recommends re-appointing Mr. Muffick, Mr. Alles and Mr. Bilodeau to EIAC and Ms. Samson as EIAC chair for another 3-year term beginning August 1, 2008 and ending July 31, 2011.

Second: Mr. Terry Smith

No public comment.

Vote: 6/0

Lobbyist Registration

The Board lobbyists last session were Melanie Symons, Scott Miller, Kim Flatow and Roxanne Minnehan. Ms. Minnehan proposed that PERB continue with these four lobbyists. They are knowledgeable and work well with the legislature.

Mr. John Nielsen moved to register Melanie Symons, Scott Miller, Kim Flatow and Roxanne Minnehan as lobbyists for the Montana Public Employees' Retirement Board for Legislative Session 2009.

Second: Ms. Darcy Halpin

No public comment.

Vote: 6/0

August Offsite Board Meeting

During the June PERB Board meeting Mr. Nielsen drew Libby as a location for the Board meeting. We were unable to make accommodations there. The Board also drew Havre as an alternate. We were able to make accommodations in Kalispell at the Best Western White Oak Grand. The Best Western's conference room is not available in the morning on that date. Ms. Minnehan also brought to the Board some new information on a possible Retreat/Board meeting at the Grouse Mountain Lodge in Whitefish. They are offering a special in October for room rates and use of the conference room. Ms. Symons brought up to the Board Members and MPERA staff that the Governor is requesting that all state travel be kept to a minimum.

Motion: Mr. John Nielsen moved to keep PERB Board meetings in Helena until given further directive from the Governor.

Second: Ms. Dianna Porter

No public comment.

Vote: 6/0

Board Meeting Dates

The Board meetings are usually held the second Thursday of every month. The Board sets the meeting schedule quarterly. The meetings for the next quarter are October, November, and December. The Board discussed the possibility of holding the retreat in Helena for the month of November.

Motion: Mr. Terry Smith moved that the next quarter Board Meetings be scheduled as follows:

Thursday, October 9, 2008

Thursday, November 13, 2008 with the Board Retreat on Friday, November 14, 2008

Thursday, December 11, 2008

Second: Ms. Darcy Halpin

No public comment.

Vote: 6/0

Board Education – Legislative Process – Scott Miller

MPERA is gearing up for the 2009 Legislative Session. We have identified issues to date and staff has started drafting proposals. Mr. Miller addressed the MPERA's Project Work Plan for legislation. Mr. Miller explained that MPERA has eighteen goals, some are 1.) Meeting all

legislative deadlines. 2.) All drafted bills are clearly defined. 3.) Obtain sponsors and 4.) Being effective lobbyists. Mr. Miller spoke of personnel and their responsibilities. A timeline was presented, showing we are currently working on bill drafting to present the bills to the Budget Office in September. Mr. Miller referred to a sample in-house bill tracking report which shows how MPERA tracks the bills' progress through the legislature. Mr. Miller also demonstrated how to use the LAWS website to monitor legislative activity.

Board Education - GWRS – Plan Update, Plan Enrichment Program – Linda Ulrich

Linda Ulrich, Regional Director, Great West Retirement Services (GWRS) presented DC/457 plan results as of December 31, 2007. GWRS is MPERA's administrative services/record keeper for the Defined Contributions Retirement Plan (DCRP) and the Deferred Compensation 457 Plan. At year end the combined plan assets were \$341.48 million. Plan assets grew by \$29.5 million. Contributions were \$26.03 million from January 1, 2007 to December 31, 2007. Also at year end the plan had 10,386 participants. Three asset classes stood out at year end, 1.) Large Cap Funds. 2.) Montana Fixed Funds and 3.) Balanced Funds. These funds are most used by participants. Ms. Ulrich also discussed GWRS 457 Plan Enrichment Program (PEP) proposal. The purpose is to increase participation diversification and overall education in the 457 plan. The objective is to increase new net participation by 3%, approximately 1660 new accounts – add a net 160 participants and replace the approximately 1500 leaving each year.

Verbal Update – NAPPA Conference Report – Melanie Symons, Scott Miller

Ms. Symons and Mr. Miller, MPERA legal counsel, attended the National Association of Public Pension Attorneys Conference, June 24-27, 2008 in Boston, MA.

Mr. Miller attended 1.) The New Member Session, which helps new members with any issues and concerns they are having. 2.) Federal and State Legislation, National Conference of Public Retirement Systems (NCPERS). 3.) Liability Driven Investments class was a debate of whether it is appropriate for public plans to use a discount rate in determining their liabilities. 4.) When to contact Law Enforcement, was about suspecting wrong doing of employees. They advocated knowing your employees, doing background checks and audits of systems. 5.) Negotiating Software Licensing Agreements. The tip of the week was: keep control of all your documents and remember where you put them. 6.) Tax 1, was IRS officials explaining Cycle C and the increased scrutiny of public pension plans. 7.) Tax 2 was the Pension Attorneys rebuttal to Tax 1.

Ms. Symons attended 1.) Legislative Process, developing a cohesive way of lobbying. This is primarily for the larger states that have many retirement entities. For Montana that would be PERB working with TRS. They discussed a conflict of interest having attorneys as lobbyist. 2.) DCRP Presentation. Ms. Symons gave a presentation on starting a Defined Contribution Retirement Plan. 3.) Negotiating Service Provider Contracts. This discussed the use of Request for Proposals (RFP). Identifying topics you want to have in you agreement. Most of ours are handled by the Department of Administration. Putting limitations on liabilities for actuaries. 4.) Dealing with errors in Benefit Administration. They discussed contested cases over mistakes in calculations. Legal theory is: the member relies on the information provided by the plan sponsor

(MPERA). Ms. Symons also attended Tax 1, and Tax 2. and gave a litigation update on the MANG case.

Verbal Update - GFOA Training – Barbara Quinn

Ms. Quinn and Ms. Diann Levandowski attended the Governmental Finance Officer's Association Conference, June 14-19, 2008 in Fort Lauderdale, FL. GFOA provides continuing education credits to accountants. The classes most applicable to MPERA were the accounting, auditing, financial reporting; budgeting, management and policy; and pensions and technology. The Government Accounting Standard Board (GASB), issues statements that we are required to follow in order to apply for an unqualified audit opinion. An unqualified opinion means there are no recommendations or changes. The GFOA gives guidance on GASB statements. They give updates and enhancements on the annual financial report. GFOA also gives advice and points in case of a disaster, items required before and after a disaster strikes and what is needed after.

Verbal Update – Legislative Committee Report – Ray Peck

A Legislative Committee meeting was held this morning before the PERB meeting. Most Board Members were in attendance – no report was required.

Verbal Update – SAVA Meeting – Roxanne Minnehan

The update was given during the Legislative Committee meeting. Refer to the July 10, 2008 Legislative Committee minutes.

Verbal Update – MPERA Staffing – Roxanne Minnehan

DB Accounting Clerk was filled by Lindsay Thompson. Lindsay resigned; her last day was July 3, 2008. This position has been posted internally.

File Clerk applications are currently being reviewed. Interviews will be scheduled next week.

Disabilities Examiner, is currently open and has not been posted.

IT Programmer is currently open and has not been posted.

Administrative Support, Member Services is a new position and a job profile has yet to be finalized.

Verbal Update – Board of Investments (BOI) – John Paull

Investment returns for the last quarter were down -0.52% to -1.0%. The fiscal year returns are down -4.5% to -5.0%. The Fixed Income Category: the BOI staff selected four new external

managers. The Core Plus Category: the BOI selected Reams, and Ardio (formerly Julis Bare). The High Yield Category the BOI selected Lemann Asset Management and Post. The RFP on hedge funds is currently being reviewed by BOI staff and RV Kuhns. This was just to gather information, once this is completed BOI will decide whether or not to invest in hedge funds. The International Bond Pool in May set a new bench mark, Morgan Stanley Capital International ExUS Investable Market Index (MSCIEXUSIMI). The Private Equity Pool's second quarter returns were -0.2%, fiscal year returns are +10%. The Real Estate Pool's second quarter returns were -0.1%, fiscal year +5.6%. Next BOI meeting is August 19 – 20, 2008 in Helena.

Verbal Update – Litigation – Melanie Symons, Scott Miller

Ms. Symons updated the Board on the Cal Wylie case. Mr. Wylie did not appeal his case to the Montana Supreme Court.

Mr. Miller updated the Board on the MPPA case. Today marks the third month since last brief was filed.

Next SAVA Meeting

September 15, 2008

Next Board Meeting

August 14, 2008
September 11, 2008

Montana State Firemen's Association Annual Convention

July 9-11, 2008 in Great Falls, MT

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.

CLOSED MEETING



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PUBLIC EMPLOYEES' RETIREMENT BOARD

July 10, 2008

Vice President John Paull called the closed meeting to order at 1:30p.m. Thursday, July 10, 2008. Roll call was taken with six Board members being present. President Klawon was excused. Board members and staff present were:

Jay Klawon, President
John Paull, Vice President
Darcy Halpin, Member
John Nielsen, Member
Ray Peck, Member
Dianna Porter, Member
Terry Smith, Member
Roxanne Minnehan, Executive Director
Melanie Symons, Legal Counsel
Scott Miller, Legal Counsel
Kim Flatow, Member Service Bureau Chief
Ursula Hatfield, Executive Assistant

MINUTES OF CLOSED MEETING

The minutes of the regular closed meeting of June 12, 2008 were presented.

Motion: Ms. Dianna Porter moved to approve the minutes of the June 12, 2008 PERB Regular Closed Meeting with corrections.

Second: Ms. Darcy Halpin

Vote: 6/0

Contested Cases

Informal Consideration – PERS, Retirement Effective Date, BJ – Kim Flatow

BJ filed an application to retire from her employer as of February 21, 2008. She returned to employment on March 27, 2008, working two hours. BJ returned to her employment four days prior to receiving her first retirement check on April 1, 2008. She has terminated her post retirement employment but wishes to retain her March 1, 2008 retirement date. BJ states she returned to work after information received from a MPERA employee.

Motion: Ms. Darcy Halpin moved to uphold staff decision that BJ returned to work early and is ineligible to receive retirement benefits for March, April and May 2008.

Second: Mr. Ray Peck

Vote: 5/1 with Mr. Terry Smith voting nay.

Informal Reconsideration – PERS, Retirement Effective Date, SV

SV filed an application to retire from her employer as of January 31, 2008. In April 2008, MPERA became aware that SV had a pre-existing agreement with her employer for a continued association after her January 31, 2008 termination. SV did not work in February but did work several hours in March. SV had a pre-arranged agreement to be available to answer any questions if she needed. SV received the remainder of her retainer in April 2008. Staff recommends SV's retirement effective date cannot be prior to May 1, 2008. SV must repay the retirement benefit for February, March and April.

SV was sworn in to give testimony to the Board. SV asked the Board reconsider their last decision and explained the hardship of repaying MPERA. SV also explained the reason her employer offered her the retainer. They offered to pay her a retainer so she could be asked questions and advise through June. This was paid through payroll. SV asked if she returned the money her employer paid her could she keep her retirement for February, March, and April. SV is stating that she was not an employee during these months, she didn't have the privileges that employees are granted. Mr. Miller explained that under IRS qualification codes, SV had not retired.

Motion: Mr. John Nielsen moved to uphold staff decision that SV had not terminated her employment until the end of April and her retirement effective date must be May 1, 2008. She must repay the retirement benefit received for February, March and April 2008.

Second: Mr. Ray Peck

Vote: 6/0

Retirement Report

- Disability Claims/Reviews: Kim Flatow
 - DA was diagnosed with very low back pain, right L1-L2 disc bulge and L2-L3 disc herniation. DA's prognosis is fair. Dr. Mitgang stated DA should have a psychiatric evaluation and perhaps with time DA could continue to work with job accommodations. Dr. Bateen noted that DA's primary issue and allegations are physical rather than mental. DA has pain disorder as described by his treating physicians. Dr. Mitgang noted that DA's pain level has not changed. DA has improved with rest, hot tub use and biofeedback.

Motion: Mr. John Nielsen moved to approve disability benefits with annual review for DA.

Second: Ms. Dianna Porter

Vote: 6/0

- IK was diagnosed with metastatic bladder cancer. IK prognosis is guarded. Dr. Mitgang noted that IK is extremely fatigued and survival is unlikely but was started on another chemotherapy agent.

Motion: Mr. John Nielsen moved to approve disability benefits without annual review for IK.

Second: Ms. Darcy Halpin

Vote: 6/0

- RL was diagnosed with degenerative sponylosis. RL prognosis is guarded. Dr. Mitgang noted that RL has had some relief from pain after receiving surgery. RL still experiences pain when driving and when walking on uneven ground. The duties of the occupation require lifting greater than 20 pounds, which is his restriction. Dr. Mitgang and staff are recommending approval of duty-related disability without annual review.

Motion: Ms. Dianna Porter moved to approve a duty-related disability duty related without annual review for RL.

Second: Mr. John Nielsen

Vote: 6/0

- SL was diagnosed with lumbar stenosis, degenerative disc disease and incontinence. SL prognosis is guarded. Dr. Mitgang noted that steroid injection helped slightly. SL is unable to return to work as originated, light duty has been recommended. SL has noted that even sitting causes pain. Dr. Mitgang and staff are recommending approval of duty-related disability with annual review.

Motion: Mr. John Nielsen moved to approve a duty-related disability duty related with annual review for SL.

Second: Ms. Dianna Porter

Vote: 6/0

- PM was diagnosed with small cell lung cancer. PM prognosis is guarded. Dr. Mitgang noted PM has having reduced balance, more fatigue and weakness, weight loss. Dr. Mitgang and staff are recommending approval of disability without annual review.

Motion: Ms. Darcy Halpin moved to approve disability benefits without annual review for PM.

Second: Mr. Ray Peck

Vote: 6/0

- DR was diagnosed with bilateral cervical/scapular region myofascial pain, C5-6 anterior cervical discectomy fusion. DR prognosis is chronic. Dr. Mitgang noted this resulted due to a duty related injury. Because of duty requirements of the job, DR is unable to be accommodated at work and must retire. Dr. Mitgang and staff are recommending approval of duty-related disability without annual review.

Motion: Mr. John Nielsen moved to approve a duty-related disability without annual review for DR.

Second: Ms. Darcy Halpin

Vote: 6/0

- PS was diagnosed with mental illness, stress and depression. PS prognosis is poor. Dr. Bateen noted her personal physician is treating PS with medication. The depression is exacerbated by job stress. The claimant has worked ten years with depression. Dr. Bateen states that stress tolerance may be reduced; this does not suggest that mental impairment is of such severity to prevent returning to her job. Dr. Bateen and staff are recommending denial of disability.

Motion: Mr. Ray Peck moved to deny disability benefits for PS.

Second: Mr. John Nielsen

Vote: 6/0

Finalized Service Retirements Disability Benefit Payments - Kim Flatow

Motion: Mr. John Nielsen moved to approve the Finalized Service Retirement/Disability Benefit Payments with addendum.

Second: Ms. Dianna Porter

Vote: 6/0

Contested Case/Litigation Updates – Melanie Symons, Scott Miller

Ms. Symons updated the Board on MG's case. MG had not appealed the decision by the deadline.

Ms. Symons also brought to the Board's attention an issue with some departments paying existing employees excess overtime, and vacation leave time and calling it a bonus. A bonus is compensation for retirement purposes; in-service payout of excess leave is not.

Actions on closed items motions made at reconvened open meeting.

MINUTES OF CLOSED MEETING

The minutes of the regular closed meeting of June 12, 2008 were presented.

Motion: Ms. Dianna Porter moved to approve the minutes of the June 12, 2008 PERB Regular Closed Meeting with corrections.

Second: Ms. Darcy Halpin

Vote: 6/0

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Motion: Ms. Darcy Halpin moved to uphold staff decision that BJ returned to work early and is ineligible to receive retirement benefits for March, April and May 2008.

Second: Mr. Ray Peck

Vote: 5/1 with Mr. Terry Smith voting nay.

Informal Reconsideration – PERS, Retirement Effective Date, SV

Motion: Mr. John Nielsen moved to uphold staff decision that SV had not terminated employment until the end of April and her retirement effective date must be May 1, 2008. SV must repay the retirement benefit received for February, March and April 2008.

Second: Mr. Ray Peck

Vote: 6/0

Finalized Service Retirements Disability Benefit Payments - Kim Flatow

Motion: Mr. John Nielsen moved to approve the Finalized Service Retirement/Disability Benefit Payments with addendum.

Second: Ms. Dianna Porter

Vote: 6/0

ADJOURNMENT

There being no further business before the Board, Mr. Terry Smith moved to adjourn the meeting, Vice President John Paull seconded. All voted aye, next regular meeting will be August 14, 2008. Meeting closed at approximately 3:00.